

BILL # SB 1286

TITLE: victims' rights omnibus

SPONSOR: Gray, C.

STATUS: Senate Engrossed

PREPARED BY: Kevin Bates

FISCAL ANALYSIS

Description

This bill specifies victim rights with regard to restitution, orders of protection, notification, privileged information, privacy, speedy trial and access to court records.

Estimated Impact

The bill is estimated to have an annual General Fund cost of \$98,000 for costs associated with victim notification of appellate decisions. The Administrative Office of the Courts (AOC) agrees with the \$98,000 notification cost estimate.

To the extent probation extensions in non-Maricopa counties require active probation supervision as opposed to administrative supervision, there could be costs for funding additional probation officers after 3 years of the legislation becoming effective. The AOC, however, believes that the bill will only result in additional administrative supervision.

Local governments would likely incur additional costs related to notification, incarceration and, potentially, probation changes. Costs related to probation extensions would not be incurred for at least 3 years.

Maricopa County estimates costs of at least \$205,000 related to providing notices and transcripts, and \$650,000 to \$960,000 for probation extensions. Unlike AOC, Maricopa County believes that the bill will result in additional active probation supervision. The county also indicates other provisions of the bill could have significant impacts that cannot be determined at this time. Input requested from city and county associations had not been received as of the time of publishing this analysis.

Analysis

Victim Notification

The state costs would be borne by the AOC and originate from increased victim notification responsibilities. The Supreme Court and Court of Appeals would be charged with notifying victims, upon request, of any appellate proceedings, decisions or opinions. AOC has indicated that this notification would require 2 additional FTE Positions, with associated salary and employee related expenditure (ERE) costs, as well as operating costs that would include creating a computer database. This database would allow AOC to track victims so that notifications could be made accurately and promptly.

State costs arising from the proposed victim notification provisions include estimates of the salary and ERE for 2 deputy clerks, along with associated operating costs. AOC indicates the bill would require 0.5 FTE Position in both the Supreme Court and Court of Appeals Division 2, along with 1.0 FTE Position in the Court of Appeals Division 1. AOC estimated an annual deputy clerk's salary at 35,400, for a total of \$70,800 for 2.0 FTE Positions. The associated ERE costs would total \$19,200. AOC also estimated total operating costs of \$8,000, which would support the victim notification tracking database. The overall cost of extra AOC victim notification responsibilities would be \$98,000.

Order of Protection Form

The bill also changes language related to protection orders. When a judge issues an order of protection, a form is given to the person from whom the victim requests protection. Currently, protection orders inform the recipient that they "may" be arrested upon disobeying the order. The change would remove the word "may" and replace it with the word "will," making an arrest mandatory for violation of a protection order. AOC estimated that changing the form would cost approximately

\$2,500, but the agency indicated that it would absorb the expenditure within its existing budget and would not request additional state funding.

Probation

The proposed legislation also would permit judges to extend terms of probation for those offenders who have failed to pay restitution. Judges currently can extend probation up to 3 years for a felony offense and up to 1 year for a misdemeanor. The bill would allow judges to increase this extension up to 7 years for a felony and up to 3 years for a misdemeanor. This extension period would apply to probationers sentenced subsequent to the passage of this bill, however, and would not affect current probationers. Therefore, any cost increases would not occur for at least 3 years subsequent to the bill becoming law.

This could add to the supervisory workload of probation officers by increasing the statewide caseload level. AOC has estimated that any additional caseload would create a negligible cost assuming that offenders who receive extended terms of probation would be placed on administrative supervision. Administrative supervision is a less intensive form of probation and requires less interaction between offenders and officers. Administrative supervision typically requires offenders to report monthly, rather than weekly, and requires significantly less time and labor of probation officers. If offenders were placed on active probation, the costs would be significantly more than administrative supervision. Maricopa County anticipates costs for probation extensions to be more significant assuming more of the supervision will fall under active probation instead of administrative supervision.

For non-Maricopa counties, the state funds additional probation officers based on a statutory ratio. Administrative supervision caseloads do not count toward the statutory ratio and would not have an impact on state costs. Active probation workloads do count toward the statutory ratio and would have an impact on state costs. As noted earlier, the impact of probation extensions would not be incurred for at least 3 years.

Local Government Impact

Depending on how provisions are implemented, local governments could incur additional costs, including costs to house offenders in county jails, costs for providing victims court transcripts and other records, and costs to notify victims of trial continuances and of the release of offenders following their arrest for violating a protection order. In Maricopa County there also could be a cost for additional probation supervision because the county, not the state, is responsible for the entire cost of supervising its probationers. The discrepancy between AOC and Maricopa County probation cost estimates exists because Maricopa County indicated that offenders whose probation terms were extended likely would not be placed on administrative supervision. These offenders would remain on active supervision.

Maricopa County reported that probation terms were extended for 230 people for nonpayment of restitution in FY 2006. Maricopa County also provided a range of average costs to supervise probationers – from \$0.15 to \$20.00 per day. However, no information was available regarding whether these 230 individuals were retained on an administrative caseload or an actively supervised caseload. As previously indicated, this additional cost would not be incurred for at least 3 years and would vary based on the exact number of people whose probation was extended, the length of the extension, and whether those offenders were placed on administrative or active supervision. If any probationers were extended on active supervision, costs likely would increase substantially.

The other significant cost identified by Maricopa County was the potential expense of incarcerating probationers in the county jail. Judges would be permitted to sentence probationers who willfully disregard orders of garnishment to jail terms until restitution is paid. The magnitude of this potential cost increase is unclear. Maricopa County reported daily jail costs of \$189 for the first day and \$72 for each subsequent day.

Increased workload by local law enforcement officers also could result from the proposed legislation. Law enforcement agencies may see higher arrest rates because of the language change that would require, rather than permit, officers to arrest someone who has violated an order of protection.